

**IN THE UNITED STATES DISTRICT COURT FOR THE  
MIDDLE DISTRICT OF ALABAMA NORTHERN DIVISION**

RECEIVED

Mark Shannon Wheeler,  
A/c # 139044  
Plaintiff

v.

Bill Segrest et al  
Defendant

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FEDERAL JUDGE'S CLERK  
U.S. DISTRICT COURT  
MIDDLE DISTRICT ALA

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CASE # 2:06-cv-274-NHT

Motion to Appeal to District Judge, to obtain a reversal  
OF denied Motions (page 2, and 9,10,11,12) OF Plaintiffs Motions  
filed 6-12-06 (Court document 9,10,12) which was denied 6-15-06 - Court  
Documents 19,20,21

In Compliance with Federal Rules of Civil Procedure Rule 6(b)(4).

Comes now the Plaintiff Mark Shannon Wheeler in this above styled Honorable Court, and moves by Prayer this Honorable Court to "Grant" this above styled Motion:

Grounds for reversal - which this Courts Jurisdiction depends.

#1. Appeal of denial of Document # 19 ruled on 6-15-06 Plaintiff Wheeler proves in his motion filed 6-12-06 (Pages 9,10,11,12) that 8th and 14th Amendment U.S. Const., as well as Article I, section 9 U.S. Const. ex post facto violation exist, as exhibit, 1-A (Page 4) of 6-12-06 filing by Plaintiff Wheeler "proves" the ex post facto violation as the exhibit 1-A (Boards ORDER Feb. 23rd 2004) last line: "All previous orders governing these procedures are hereby repealed". That "BOARD ORDER" plainly shows that the Boards Executive Director (Defendant) Bill Segrest et al must have approved the Constitutional violations AS the "previous requirement" for parole review Guideline Setting at time (May 1994) when Plaintiff Wheeler was sentenced AND Granted by Procedure his Guideline setting of 10 years (or one third of sentence which ever is less) was the regulated "policy", now made void by the ex post facto violation. Plaintiff Wheeler also had Incorporated exhibit, 1-C (Page 6) of June 12th-2006 document, which Parole Board by Approval of Defendant Bill Segrest ON "12/4/01" (exhibit 1-C) filed 6-12-06 BY Plaintiff Mark Wheeler, shows the illegal changing - later by "repealing All previous orders governing Board Procedures" on Feb. 23-2004) which the 12/4/01 changing, changed the policy Wheeler was sentenced in May 1994 under, which is 10 years or one third, which ever is less, for Class A Violent type Cases, "to, (on 12/4/01) 15 years or 85 percent which ever is less".

So the 15 years, or 85 percent is still now listed (Feb 23-2004) till present, But the 10 year or one third which ever is less for class A violent type cases was "repealed" on Feb. 23rd-2004, "Violating ex post facto". Plaintiff Wheeler has never raised this issue in any other court, nor the 22 months reimbursement Complaint for demand relief. The Alabama Department of Corrections could not take away "Good Time" credits from those "Already" sentenced when the 446 Act was proceduralized, neither can defendant Bill Segrest et al approve an ex post facto violation to remove the 10 year, or one third whichever is less Guideline Setting for Persons Sentenced before 12/4/01, with a class A felony conviction. This violation also discriminates against 14th Amendment "Equal Protection" U.S. Constitution, equal consideration of plaintiffs peers whom were reviewed before 12/4/01, and especially before Feb. 23rd- 2004. This is cruel and unusual punishment which has been arbitrarily and capriciously imposed upon Wheeler, and also many of his peers, have also been violated of their 8th Amend. U.S. Const. as Plaintiff Wheeler has. It should be ordered by the judicial jurisdiction of this Honorable Courts invoking by Plaintiff Wheeler, that, defendant Bill Segrest et al, submit to this Honorable Court each and every class A violent felony convictions reason for denial of parole whom were sentenced prior to 12/4/01, "AS THE U.S. CONST. IS\* implicated by ex post facto blatant violation - which gives this Honorable said Court JURISDICTION. Plaintiff Wheeler seeks relief from the said Constitutional Rights Violations, in prayer to this Honorable Court, and that the V.O.C.A.L. issue of motion filed in this said Court by Plaintiff on 6-12-06 (Pages 9,10,11,12), be addressed.

#2. Appeal of Document #20 ORDER ON MOTION, Plaintiff Wheeler proves in his Motion filed 6-12-06 (Page 2) in this Court that he is due reimbursement of 22 months of late consideration time pre established. Page 8 "exhibit 1-E" Filed 6-12-06 is Plaintiff Wheelers Affidavit which is verifiable as true. Exhibit 1-B (Page 5) of Plaintiffs exhibits filed in this Honorable Court on 6-12-06 (#11) states: IF Parole has been denied, the Board shall determine whether and when the case shall next be docketed for consideration, not to exceed five (5) years. The case will be considered again as near as practicable to the specified month and year. Plaintiff Wheeler prays for relief of ruling on 6-15-06 (Document #20 of Court ORDER ON MOTION).

#3. Appeal of Document #21 ORDER ON MOTION, Plaintiff Wheeler sought by permission of this Honorable Court to move for declaratory judgment, but only the issue of Motion for appointment of Counsel was addressed by this Honorable Court. On 6-12-06 Plaintiff Wheeler filed in this Court (Document #12). Plaintiff Wheeler prays for relief, and is praying for a granted declaratory judgment favorable to Plaintiff as he is due. Plaintiff Wheeler demands a jury trial in compliance to fed. R. Civ. Proc. Rule 57. Plaintiff claims Rule 52 (a)(b)(c) of Fed. R. Civ. Procedure have not been yet satisfied to properly deny Plaintiff Wheelers forsaid motions, and are due to be reversed, and GRANTED Plaintiff. Plaintiff Wheeler prays also for a speedy hearing for a declaratory judgment.

I hereby swear this to be true and correct this the 20th day of June 2006. Mark Shannon #139044  
MARK SHANNON Plaintiff Prose

## Certificate of Service

I MARK Shannon Wheeler hereby Certify  
that I have mailed A Copy of the same to  
the Defendant Bill Segrest et al, by First  
CLASS Postage Pre paid and addressed to  
Defendants Counsel at:

Steve M. Sirmon  
Assistant Attorney General  
Ala. Bd. of Pardons and Paroles  
301 South Ripley Street  
P.O. Box 302405  
Montgomery, AL 36130

By Kilby Prisons Inmate hand mail  
Done this the 20<sup>th</sup> day of June, 2006

Mark Shannon  
Mark Shannon Wheeler 139044  
Plaintiff Pro Se

Mark S. Wheeler  
AIS # 139044, K-125  
Kilby Corr. Fac.  
P.O. BOX 150  
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